

• 10 REASONS TO MAKE A WILL

There are many good reasons for making a will but here are just a few which demonstrate why it is so important.

1. To ensure that your assets are distributed according to your wishes.

Can you be sure who will inherit your assets upon your death?

The only certain way to ensure that your assets are distributed according to your wishes is to make a Will.

Without a Will, strict legal principles will decide who will inherit your assets and those persons you wish to benefit may not necessarily inherit from your estate.

This is particularly important in light of recent changes to Guernsey's inheritance laws. The Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law 2006, ensures that all heirs, whether born in or out of marriage, are entitled to inherit from an estate. The difficulty this creates is that, if there is no Will in place, any beneficiary of Real Property will have to provide confirmation that they are the only heirs before the property can be sold. If they cannot do so an "Administrator" may need to be appointed by the Royal Court of Guernsey to sell the Real Property and who may hold the proceeds of sale for up to a maximum period of six years.

2. To provide for your partner.

Unmarried couples will not automatically inherit upon the death of their partner as they have no legal entitlement to the deceased's estate. Without a Will in place, your partner will not benefit.

3. To provide for your spouse.

Most people do not realise that if no Will is in place, a spouse will only inherit one third (if

the deceased leaves descendants). or one half (if there are no descendants) of any personal estate which the deceased holds in his or her sole name

Further a spouse will only be granted a right of enjoyment over half of any Real Property the deceased may have owned in his sole name. Therefore a spouse could potentially end up paying rent to live in a house they have lived in for many years!

4. To provide for step-children.

Under Guernsey law step-children will not automatically inherit from their respective step-father's or step-mother's estate therefore to benefit any step-children they must be specifically included within a Will.

5. If you have recently gone through a separation or divorce.

Getting a Judicial Separation or a Divorce does not revoke a previous Will. Therefore, if you have specifically named your spouse in a Will they may still be a beneficiary of your estate or receive a gift.

Alternatively, if you have gone through a Judicial Separation or a Divorce and have, as part of that process, revoked any rights of inheritance, if you wish to benefit your spouse or ex-spouse you will need to specifically include them in a Will.

6. To appoint a Guardian of minor children.

In the event of your death you can ensure that people you trust are appointed to look after and care for any children under the age of eighteen.

7. To set up a trust for beneficiaries.

If you wish to do so, you can ensure that the freely disposable portion of any personal estate is placed upon trust until any

beneficiary reaches a nominated age.

Alternatively you can place the 'legitimate' (i.e. automatic entitlement) of a descendant in trust for their lifetime.

8. To nominate an Executor.

Without a Will in place, upon your death an Administrator must be appointed to administer your estate. This is a lengthy and potentially costly process which can cause additional stress to your family members at an already difficult time.

By making a Will you can ensure that someone you trust is appointed, in a simple and cost effective manner, to ensure that your beneficiaries receive their inheritance.

9. To avoid unnecessary costs or family conflicts.

By making a Will, your wishes are expressed clearly to your family and friends.

10. To deal with the issue of "advancements".

Sums of money given to children prior to your death may be considered as "advancements" of inheritance and will automatically be taken into account in the final distribution of your estate.

By making a Will you can confirm whether or not the part of your estate your children will receive should be reduced by any such advancements.

Making a Will is one of those things that people never seem to be able to find the time to do, but having an up-to-date Will is so important as without it family and friends can face unnecessary legal and financial complications at an already difficult time.

FOR MORE INFORMATION,
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